



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
08/289,290	08/11/1994	RALPH H. WEICHSELBAUM	092234-9022-00	1375
23510 7590 12/11/2007 MICHAEL BEST & FRIEDRICH LLP ONE SOUTH PINCKNEY STREET P O BOX 1806 MADISON, WI 53701			EXAMINER LI, QIAN JANICE	
			ART UNIT 1633	PAPER NUMBER
			MAIL DATE 12/11/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.



**UNITED STATES DEPARTMENT OF COMMERCE
U.S. Patent and Trademark Office**

Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450

APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
08289290	8/11/94	WEICHSELBAUM ET AL.	092234-9022-00

MICHAEL BEST & FRIEDRICH LLP
ONE SOUTH PINCKNEY STREET
P O BOX 1806
MADISON, WI 53701

EXAMINER

Q. Janice Li, M.D.

ART UNIT	PAPER
1633	20071129

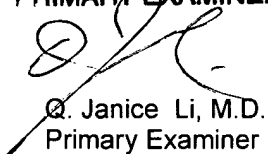
DATE MAILED:

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner for Patents

See attached Examiner's amendment.

**Q. JANICE LI, M.D.
PRIMARY EXAMINER**


Q. Janice Li, M.D.
Primary Examiner
Art Unit: 1633

DETAILED ACTION

EXAMINER'S AMENDMENT

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Wendy Saffrood on December 4, 2007.

The claims have been amended as follows:

Claim 29. (Cancelled)

Claim 31. (Currently amended) A method of expressing a radioprotecting or radiosensitizing factor in a mammal comprising administering to the mammal an effective amount of ~~a the~~ pharmaceutical composition of ~~claim 29~~ comprising a genetic construct comprising a nucleic acid that encodes a TNF- α operatively linked to a constitutive promoter dispersed in a pharmacologically acceptable carrier, wherein the genetic construct is packaged within an adenovirus particle.

Claim 37. (Cancelled)

Claim 38. (Currently amended) A process of inhibiting growth of a tumor in a host comprising the steps of:

- (a) injecting into the tumor a therapeutically effective amount of a the pharmaceutical composition of claim 29 comprising a genetic construct comprising a nucleic acid that encodes a TNF- α operatively linked to a constitutive promoter dispersed in a pharmacologically acceptable carrier, wherein the genetic construct is packaged within an adenovirus particle, and
- (b) administering to the host an effective dose of ionizing radiation, whereby the growth of the tumor is inhibited by expression of the nucleic acid encoding a TNF- α and the administration of ionizing radiation.

Conclusion

Claims 1-3, 6, 8-14, 18-28, 31-36, 38-42 are allowable. However, the application will be forwarded to the Board of Patent Appeals and Interference for an interference proceeding.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Q. Janice Li** whose telephone number is 571-272-0730. The examiner can normally be reached on 9:30 am - 7 p.m., Monday through Friday, except every other Wednesday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Joseph Weitach** can be reached on 571-272-0739. The fax numbers for the organization where this application or proceeding is assigned are **571-273-8300**.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to (571) 272-0547.

Application/Control Number:
08/289,290
Art Unit: 1633

Page 4

Patent applicants with problems or questions regarding electronic images that can be viewed in the Patent Application Information Retrieval system (PAIR) can now contact the USPTO's Patent Electronic Business Center (Patent EBC) for assistance. Representatives are available to answer your questions daily from 6 am to midnight (EST). The toll free number is (866) 217-9197. When calling please have your application serial or patent number, the type of document you are having an image problem with, the number of pages and the specific nature of the problem. The Patent Electronic Business Center will notify applicants of the resolution of the problem within 5-7 business days. Applicants can also check PAIR to confirm that the problem has been corrected. The USPTO's Patent Electronic Business Center is a complete service center supporting all patent business on the Internet. The USPTO's PAIR system provides Internet-based access to patent application status and history information. It also enables applicants to view the scanned images of their own application file folder(s) as well as general patent information available to the public.

For all other customer support, please call the USPTO Call Center (UCC) at 800-786-9199.

**Q. JANICE LI, M.D.
PRIMARY EXAMINER**



Q. Janice Li, M.D.
Primary Examiner
Art Unit 1633

QL

December 4, 2007